

P O R T E R | S C O T T

A PROFESSIONAL CORPORATION

William E. Camy, SBN 291397

Alison J. Southard, SBN 335716

2180 Harvard Street, Suite 500

Sacramento, CA 95815

TEL: 916.929.1481

FAX: 916.927.3706

wcamy@porterscott.com

asouthard@porterscott.com

Attorneys for Defendant COUNTY OF FRESNO

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

AMALIA DEEL and MICHAEL DEEL,
individually and as successors-in-interest to
TYLER DEEL, deceased,

Plaintiffs,

vs.

COUNTY OF FRESNO; and DOES 1-10,
inclusive,

Defendants.

Case No.: 1:24-cv-00885-EPG

**DEFENDANT COUNTY OF FRESNO'S NOTICE
OF MOTION AND MOTION TO DIMSISS
PLAINTIFFS AMALIA DEEL AND MICHAEL
DEEL'S COMPLAINT**

Date: October 4, 2024

Time: 10:00 a.m.

Location: Courtroom: 10, 6th Floor

/ Complaint filed 8/1/2024

PLEASE TAKE NOTICE that on the above date and time, or as soon thereafter as the matter may be heard, in Courtroom 10, 6th floor, of the United States District Court, Eastern District, located at 2500 Tulare Street, Fresno, CA 93721, Defendant COUNTY OF FRESNO will move this Court for an order dismissing Plaintiffs' Complaint against them with prejudice on the following grounds:

1. Plaintiffs' Fourth Claim for Violation of the American with Disabilities Act (42 U.S.C. Section 12132) Against the County Fails Because Plaintiffs Have Pled Insufficient Facts to Suggest Decedent was Disabled Within the Meaning of the ADA;
2. Plaintiffs' Fourth Claim for Violation of the American with Disabilities Act (42 U.S.C. Section 12132) Against the County Fails Because Plaintiffs Have Pled Insufficient Facts to Suggest

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Responding Fresno Sheriff's Office Deputies Knew Decedent Was Disabled as Plaintiffs Allege;

3. Plaintiffs' Fourth Claim for Violation of the American with Disabilities Act (42 U.S.C. Section 12132) Against the County Fails Because Plaintiffs Have Pled Insufficient Facts to Suggest Responding Deputies Discriminated Against Decedent Because of His Alleged Disability;
4. Plaintiffs' Fifth Claim for Battery Against the County Fails Because Plaintiffs' Have Not Pled Facts Suggesting the Use of Force Was Unreasonable Under the Totality of Circumstances;
5. Plaintiffs' Sixth Claim for Negligence Against the County Fails Because Plaintiffs Have Not Pled Sufficient Facts to Suggest Responding Deputies' Acted Unreasonably;
6. Plaintiffs' Seventh Claim for Violation of the Bane Act Fails Because Plaintiffs Have Not Pled Sufficient Facts to Suggest the Responding Deputies Violated Decedent's Fourth Amendment Right to be Free from Use of Excessive Force;
7. Plaintiffs' Seventh Claim for Violation of the Bane Act Fails Because Plaintiffs Have Not Pled Sufficient Facts to Suggest the Responding Deputies Violated Decedent's Fourth Amendment Right to Medical Care;
8. Plaintiffs' Seventh Claim for Violation of the Bane Act Fails Because Plaintiffs Have Not Pled Sufficient Facts to Suggest the Responding Deputies Violated Plaintiffs' or Decedent's Fourteenth Amendment Right to a Familial Relationship;
9. Plaintiffs' Seventh Claim for Violation of the Bane Act Fails Because Plaintiffs Have Not Pled Sufficient Facts to Suggest the Responding Deputies Specifically Intended to Violate Plaintiffs' or Decedent's Rights.

This Motion is based on this Notice, the supporting Memorandum of Points and Authorities, and the entire court file and any other pleadings, evidence, or legal arguments that may be presented at the time of the hearing to the extent one is held.

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1 Dated: August 28, 2024

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3 By: /s/ William E. Camy
4 William E. Camy
5 Alison J. Southard
6 Attorneys for Defendant
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